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Atty Dkt No. GP-302475 (GM0328PUS)

REMARKS

The following remarks are intended to be fully responsive to the Office Action mailed March 22, 2005.

Claims 1, 4-13, and 15-21 are pending. Applicants note with appreciation the allowance of claims 12, 13, 15 and 16. The drawings are objected to. Claim 4 is objected to. Claims 1 and 4 are rejected under 35 U.S.C. § 102(b) as being anticipated by Eipper et al. (6,224,120). Claims 1 and 8-11 are rejected under 35 U.S.C. § 103 as being unpatentable over Wang (5,967,573) in view of Pedersen (5,997,058). Claims 5-7 are rejected under 35 U.S.C. § 103 as being unpatentable over Eipper et al. in view of Tohda et al. (6,447,049). Claim 21 is rejected under 35 U.S.C. § 103 as being unpatentable over Eipper et al. in view of Sundgren. Applicants have amended claim 5.

Objections to the Drawings

The Examiner objects to the drawings under 37 CFR § 1.83(a) because "the body panel forming a first portion of the vehicle exterior surface of claim 1, the metal bumper forming a second portion of the vehicle exterior surface of claim 1, and the first and second portions being contiguous of claim 1 must be shown or the feature(s) canceled from the claim(s)."

Applicants respectfully submit that the Examiner's objection to the drawings is erroneous. Applicants refer the Examiner to paragraph 0036 and Figure 6 of the present application. Paragraph 0036 states, with reference to Figure 6:

The vehicle 33' of which the bumper 15" is a part also includes body panels such as a hood 83. The hood 83 forms a first portion 86 of the exterior surface of the vehicle. Bumper outer panel surface 30" forms a second portion of the exterior surface of the vehicle. . . . The bumper 15" and the hood 83 are adjacent to one another such that the first portion 86 and the second portion 30" of the vehicle exterior surface are contiguous or appear contiguous. (underlining added for emphasis).

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Accordingly, Figure 6 shows the features recited by the Examiner as being absent from the drawings, and therefore the objection to the drawings is improper.

Claim Objections

The Examiner objects to claim 4 because "on line 4, 'a load' should be 'the load' to refer back to claim 1, line 5. Appropriate correction is required." Applicants have amended claim 4 accordingly.

Claim Rejections – 35 USC §102(b)

Claim 1 is rejected under 35 USC § 102(b) as being anticipated by Eipper et al (6,224,120). Claim 1 recites, *inter alia*, a "body panel forming a first portion of the vehicle exterior surface; and a metal bumper ... forming a second portion of the vehicle exterior surface; ... and wherein the first portion and the second portion of the vehicle exterior surface are substantially contiguous." (underlining added for emphasis).

Applicants note that the Examiner, in rejecting claim 1 as being anticipated by Eipper et al., fails to address the limitation that "the first portion and the second portion of the vehicle exterior surface are substantially contiguous."

With reference to Figure 1 of Eipper et al., Eipper et al. fail to teach a "body panel forming a first portion of the vehicle exterior" that is contiguous with a surface of bumper 23 that forms a second portion of the vehicle exterior surface, as recited by claim 1. Assuming that the Examiner is referring to "protective bow 12" as a bumper, it is apparent from Figure 1 of Eipper et al. that significant gaps exist between the protective bow 12 and any body panel, and therefore the protective bow 12 does not form a surface that is contiguous with a surface on a body panel. Accordingly, claim 1 is not anticipated by Eipper et al. Claim 4 depends from claim 1 and is allowable for at least the same reasons that claim 1 is allowable.

Claim Rejections – 35 U.S.C. § 103(a)

Claims 1 and 8-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang in view of Pedersen. With respect to Wang, the Examiner

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merely states that "Wang (5,947,673) discloses the claimed invention but fails to specify disclose [sic] the specifics of the bumper including the material of the bumper being metal." However, Wang does not disclose, either expressly or inherently, a "body panel forming a first portion of the vehicle exterior surface; and a metal bumper ... forming a second portion of the vehicle exterior surface; ... and wherein the first portion and the second portion of the vehicle exterior surface are substantially contiguous," as recited by claim 1.

With reference to Figure 1 of Wang, even when bumper 28 is retracted, it does not form a surface contiguous with a body panel surface. If the Examiner maintains the position that Wang discloses a body panel forming a first portion of the vehicle exterior surface and a metal bumper forming a second portion of the vehicle exterior surface, and the first portion and the second portion being substantially contiguous, Applicants respectfully request that the Examiner cite text and/or reference numbers from Wang that expressly disclose the limitation, or provide technical reasoning that the limitation is necessarily present in Wang, as required for a finding of inherency. Pedersen does not disclose such a limitation, and accordingly, the rejection of claim 1 is improper.

Claims 8-11 ultimately depend from claim 1 and are therefore allowable for at least the same reasons that claim 1 is allowable.

The Examiner states that "[c]laims 5-7 are rejected under 35 U.S.C. § 102(b) as being anticipated by Eipper et al. in view of Tohda et al." Applicants presume that the Examiner means that claims 5-7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Eipper et al. in view of Tohda et al. Applicants note that claims 4-7 ultimately depend from claim 1, which is rejected under 35 U.S.C. § 102 as being anticipated by Eipper et al. As noted above, Eipper et al. fail to disclose all of the limitations of claim 1. Accordingly, claims 4-7 are allowable for at least the same reasons that claim 1 is allowable, since the Examiner relies on Eipper et al. in the rejections under § 103 for claims 4-7. Furthermore, the bumper of Tohda et al clearly

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does not define a portion of the vehicle exterior surface that is contiguous with a portion of the vehicle exterior surface defined by a body panel, as recited by claim 1.

Claim 21 is rejected under 35 USC § 103(a) as being unpatentable over Eipper et al in view of Sundgren et al. Claim 21 recites a "bumper having an outer panel and an inner panel operatively connected to the outer panel and at least partially corrugated." The Examiner states that Eipper et al disclose "metal bumper 12 mounted with respect to the two upper rails and the two lower rails ... the bumper having an outer panel and an inner panel operatively connected to the outer panel (as is known from rod shaped or U-shaped profiles)."

In the Amendment filed January 31, 2005, Applicants noted that, to rely on the inherency of a claimed element or feature in a prior art reference, the Examiner must provide extrinsic evidence and/or technical reasoning that the claimed element or feature is necessarily present in the reference. See MPEP § 2112.

In response, the Examiner states in the "Response to Arguments" section of the Office Action mailed March 22, 2005 that "the Examiner notes that the Eipper et al. reference clearly discloses inner and outer panels (as best seen in cross section in Figure 6). The bumper has a 'rod' profile and is rod shaped in cross section thereby providing for both inner and outer panels." However, a "rod" profile does not necessarily result in an inner and outer panel. Indeed, Figure 6 indicates that the "protective bow 12" of Eipper is solid, and therefore clearly does not have an inner panel and an outer panel. Bumper 23 of Eipper et al. clearly does not include an inner panel and an outer panel, either. Indeed, the Examiner admits that "Eipper et al. lack the bumper including an inner panel and an outer panel operatively connected to the inner panel" in the first full paragraph on page 6 of the Office Action mailed March 22, 2005. Accordingly, the rejection of claim 21 is improper.

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CONCLUSION

This Amendment is believed to be fully responsive to the Office Action mailed March 22, 2005. The remarks in support of the amended claims and the rejected claims are believed to place this application in condition for allowance, which action is respectfully requested.

Respectfully submitted

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